

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

RESIDENTIAL CAPITAL, LLC, *et al.*

Debtors.

Case No. 12-12020 (MG)

Jointly Administered

**ORDER DENYING THE RESCAP BORROWER CLAIMS TRUST'S MOTION IN  
LIMINE TO EXCLUDE EVIDENCE OF CLAIMANT'S ATTEMPTS TO REFINANCE  
THE MATLACK PROPERTY**

The ResCap Borrower Claims Trust ("Trust") has moved *in limine* to exclude evidence of at trial concerning Reed's efforts to refinance the mortgage on his Matlack Drive property, including through proposed testimony of Robert Curley ("Curley"). (ECF Doc. # 10042.) Reed submitted an opposition. (ECF Doc. # \_\_\_\_.) The Trust filed a reply. (ECF Doc. # 10099.) This contested matter is back in this Court on remand from the district court, which affirmed in part and reversed in part this Court's prior decision after trial. The issue on remand is whether Reed suffered any compensable damages in connection with economic loss relating to other real estate transactions.

The damages recoverable relating to Reed's Matlack property were already tried and determined in the earlier trial on September 15-16, 2014. The Court awarded Reed damages in connection with the wrongful foreclosure efforts with respect to that property. Reed may not seek a second bite at the apple by trying to increase recoverable damages relating to the Matlack property.

Whether evidence about Reed's failed efforts to refinance the Matlack property because of attempted wrongful foreclosure were the legal cause of compensable losses relating to other properties—for example if the refinancing failed because of the filing of the foreclosure action

and would have made sufficient funds available for Reed successfully to complete other real estate transactions—cannot be determined at this time. The Court needs to hear the evidence and arguments at trial.

For the foregoing reason, this motion *in limine* is **DENIED**.

**IT IS SO ORDERED.**

Dated: September 14, 2016  
New York, New York

*Martin Glenn*  
MARTIN GLENN  
United States Bankruptcy Judge